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SERVICE DATE - FEBRUARY 10, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-864X]

Hennepin County Regional Railroad Authority—Abandonment Exemption—in McLeod,
Carver and Hennepin Counties, MN

Hennepin County Regional Railroad Authority (HCRRA) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 43.9+/- mile line of railroad, between milepost 24.6+/- near Wayzata and milepost 68.5+/- in Hutchinson, in McLeod, Carver and Hennepin Counties, MN. In its notice, HCRRA indicates that the right to conduct freight rail operations on the line is pursuant to a freight rail operations easement in its favor. HCRRA further indicates that the underlying property located in McLeod County is owned by McLeod County Regional Railroad Authority (MCRRA), in Carver County is owned by the Carver County Regional Railroad Authority (CCRRA), and in Hennepin County is owned by HCRRA, and that MCRRA, CCRRA and HCRRA are all political subdivisions of the State of Minnesota. HCRRA has filed this notice to terminate its common carrier obligation on the line and, upon the effective date of the proposed abandonment exemption, it has agreed to release the freight rail operations easement in its favor for that portion of the line located in Carver County to CCRRA, and for that portion of the line located in McLeod County to MCRRA, and HCRRA will retain its portion of the line located in Hennepin County, all for the

purposes of preserving the line for future rail transportation use and other compatible transportation uses. The line traverses United States Postal Service Zip Codes 55323, 55350, 55354, 55356, 55360, 55361, 55364, 55367, 55375, 55381, 55384, 55387, and 55391.

HCRRA has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 11, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 20, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 1, 2004, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.³

A copy of any petition filed with the Board should be sent to HCRRA's representative: Marilyn J. Maloney, Assistant County Attorney, 2000A Government Center, Minneapolis, MN 55487.

If the verified notice contains false or misleading information, the exemption is void ab initio.

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

³ HCRRA has requested that the Board make certain determinations regarding the imposition of public use and trail use conditions here. The Board's Class Exemption process, which HCRRA has invoked, does not provide for such determinations in issuing a notice of exemption, and it is not clear that these determinations are necessary in this proceeding. While no one has made a proper filing for either a public use or trail use condition, should a party wish to proceed under the Board's public use or trail use procedures, such party should make the appropriate filings within the time frames set forth above, as provided in the Board's rules at 49 CFR 1152.28 (Public use procedures) and at 49 CFR 1152.29 (Prospective use of right-of-way for interim trail use and rail banking, respectively).

HCRRA has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by February 13, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), HCRRA shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by HCRRA's filing of a notice of consummation by February 10, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: February 2, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary